

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

METROPOLITAN TRANSPORTATION
AUTHORITY, *et al.*,

Plaintiffs,

v.

SEAN DUFFY, in his official capacity as
Secretary of the United States Department of
Transportation, *et al.*,

Defendants.

Civil Action No. 1:25-cv-1413 LJL

Hon. Lewis J. Liman

**MEMORANDUM OF LAW IN SUPPORT OF AMICI CURIAE
ENVIRONMENTAL DEFENSE FUND, NATURAL RESOURCES DEFENSE
COUNCIL, CIVITAS, NEW YORK LEAGUE OF CONSERVATION VOTERS,
BIKENY, REINVENT ALBANY, MOVENY, PARTNERSHIP FOR NEW YORK CITY,
TRI-STATE TRANSPORTATION CAMPAIGN, OPEN PLANS, EMPOWERNJ,
BLUEWAVENJ, CLEAN WATER ACTION, BIKE HOBOKEN, OUR REVOLUTION
NJ, BIKE NORTH BERGEN, TURNPIKE TRAP COALITION, EVERGREEN,
HUDSON COUNTY COMPLETE STREETS, WE ACT FOR ENVIRONMENTAL
JUSTICE, STREETSPAC, TRANSPORTATION ALTERNATIVES, NEW YORK
PUBLIC INTEREST RESEARCH GROUP, MICHAEL B. GERRARD AND SAM
SCHWARTZ FOR LEAVE TO FILE AMICUS CURIAE BRIEF**

Amici curiae Environmental Defense Fund (“EDF”), Natural Resources Defense Council, CIVITAS, New York League of Conservation Voters (“NYLCV”), Bike New York, Reinvent Albany, MoveNY, Partnership For New York City (“PFNYC”), Tri-State Transportation Campaign (“TSTC”), Open Plans, EmpowerNJ, BlueWaveNJ, Clean Water Action, Bike Hoboken, Our Revolution NJ, Bike North Bergen, Turnpike Trap Coalition, Evergreen, Hudson County Complete Streets (“HCCS”), WE ACT for Environmental Justice

(“WE ACT”), StreetsPAC, Transportation Alternatives (“TA”), New York Public Interest Research Group Fund, Michael B. Gerrard, and Sam Schwartz, (collectively, “amici”) respectfully move for leave to file an *amicus curiae* brief in this matter.¹ The proposed amicus brief is attached as Exhibit 1. All parties have consented to this requested relief.

INTEREST OF THE *AMICI CURIAE*

Amici are 23 organizations and 2 individuals committed to protecting the safety and well-being of residents in and around New York City, particularly by way of environmental, transit, and civic advocacy.

EDF is a nonprofit organization headquartered in New York City that links science, economics, and the law to create innovative, equitable, and cost-effective solutions to urgent environmental problems and has worked for decades to protect human health and the environment for people and communities in New York City.

The Natural Resources Defense Council, incorporated as a non-profit organization under the laws of New York State in 1970, has more than 35,000 members in New York and has advocated for more than five decades for improved public transportation, clean air, and a sustainable economy in the nation’s largest city.

CIVITAS is an organization of citizens founded in 1981, dedicated to improving neighborhood quality of life in Manhattan’s Upper East Side and East Harlem by promoting environmentally conscious development, access to efficient public transit, and policies that improve the quality of urban life in New York City neighborhoods.

¹ *Amici* state that no counsel for any party authored this brief in whole or in part and no entity or person, aside from *amici*, their members, or their counsel, made any monetary contribution intended to fund the preparation or submission of this brief.

NYLCV is a non-partisan, statewide environmental organization in New York that fights for clean water, healthy air, renewable energy, and open space.

Bike New York promotes cycling as a practical, sustainable, and healthy means of transportation and recreation in New York City that has long supported congestion pricing for its street safety benefits and potential to create additional space for bikeways and traffic calmed streets. The city's density makes it ideal for expanding use of bicycles for practical travel and to reach mass transit stations.

Reinvent Albany advocates for transparent and accountable New York government, including more open and better-governed state authorities like the Metropolitan Transportation Authority.

Move NY is a region-wide grassroots campaign that seeks to build support for a master transportation plan for New York City and aims to bring faster, safer, fairer transportation to all New Yorkers.

PFNYC is a nonprofit organization whose members are business leaders and major employers who are dedicated to maintaining New York's status as a global center of commerce, economic opportunity, and innovation.

TSTC is a non-profit organization using data and policy analysis, along with strategic media outreach to promote sustainable transportation, equitable planning policies and practices, and strong communities in the New York City metro area.

Open Plans is a nonprofit whose mission is to promote a people-first street culture that prioritizes community, active mobility, and connection. Open Plans uses grassroots advocacy and policy changes to help transform how people experience New York City's public spaces.

EmpowerNJ is a coalition of 140 environmental, civic, faith, and progressive organizations that advocates for prohibiting new fossil fuel projects and reducing greenhouse gas emissions in New Jersey. It regularly participates in judicial, administrative, and legislative proceedings in New Jersey.

BlueWaveNJ is a progressive grassroots organization seeking solutions through community. Its working groups, conferences, marches, and special events have mobilized voters and coalitions to demand positive change from legislators at the state and federal level in such critical areas as health care, the economy, marriage equality, the environment, education, electoral reform and sensible gun control.

Clean Water Action's mission is to develop strong community-based environmental leadership and coalition partners; bring together diverse constituencies to work cooperatively for clean, safe and affordable solutions to water, waste, toxics and energy issues that address public health, environmental, consumer and community problems, and; make the democratic process more accessible, inclusive and effective for people most affected and with an eye towards environmental, social, civic and economic justice. For over 40 years, Clean Water Action has conducted innovative community-based and statewide campaigns that have yielded long term protections in New Jersey. Since 1982, Clean Water Action has staffed and operated offices throughout New Jersey with 1 million nationwide and 150,000 New Jersey members and 75,000 email subscribers.

Bike Hoboken strives to make Hoboken, New Jersey more bike-friendly and our streets safer for everyone.

Our Revolution NJ is a progressive political advocacy group focused on four things in New Jersey: Abolishing the county line, police accountability, climate change, and

Medicare for all. It works to support climate projects including increasing the performance and usage of public transit as a key step in addressing climate change.

Bike North Bergen is dedicated to advocacy efforts for safer streets in the Township of North Bergen, New Jersey and believes that. pedestrians, people on bicycles and other active modes of transportation and micro-mobility need robust infrastructure to move around safely in the densest metro-area in the United States.

Turnpike Trap Coalition is a coalition of grassroots organizations from around New Jersey standing together to stop the proposed widening of the Newark Bay Hudson County extension of the New Jersey Turnpike.

Evergreen is a Washington D.C.-based nonprofit climate advocacy organization founded in 2020, leading the fight to put bold climate action at the top of America's agenda and to implement an all-out mobilization to defeat climate change and create millions of good union jobs in a just and thriving clean energy economy.

HCCS's mission is to improve connectivity and transportation equity in Hudson County by advocating for safe streets, pedestrian and cycling infrastructure, and access to transit in each community. HCCS believes a more connected Hudson County that is safe for pedestrians, cyclists, scooters, skaters, people in wheelchairs, and other vulnerable road users will promote the health and well-being of our more than 750,000 residents by providing people of all ages and abilities with more mobility options.

WE ACT is a community-based organization, founded in 1988, in West Harlem that fights environmental racism – racial discrimination in environmental policy-making, enforcement of regulations and laws, and targeting communities of color for toxic waste disposal and siting of polluting industries.

StreetsPAC is a New York City-based political action committee dedicated to electing candidates who support pro-safe streets and pro-public transit policies, and to advancing such policies through related advocacy work.

TA leads by using a combination of neighborhood-level grassroots organizing and citywide advocacy to push for changes in public policy, street design, enforcement, and resource allocation that transform New York City's streets for the better.

New York Public Interest Research Group engages New Yorkers in public education, research, and advocacy campaigns to produce policies that strengthen democracy, enhance the rights of consumers and voters, support public mass transit, and protect the environment and public health.

Michael B. Gerrard is Andrew Sabin Professor of Professional Practice at Columbia Law School and Faculty Director of the Sabin Center for Climate Change Law.

Sam Schwartz is a nationally recognized expert in the fields of traffic engineering and congestion pricing. He served as New York City Traffic Commissioner from 1982 to 1986 and as the City Department of Transportation's First Deputy Commissioner and Chief Engineer from 1986 to 1990.

Amici represent broad and diverse interests across the region and are united by their strong commitment to ensuring the continuation of this vital program and realizing the essential health, safety and economic benefits for millions of people across the region provided by the CBD Tolling Program.

ARGUMENT

District courts have broad discretion to permit the filing of an *amicus* brief. *See C&A Carbone, Inc. v. County of Rockland*, 2014 WL 1202699, at *3 (S.D.N.Y. Mar. 24, 2014)

(collecting cases); *In re GLG Life Tech Corp. Sec. Litig.*, 287 F.R.D. 262, 265 (S.D.N.Y. 2012); *Auto. Club of N.Y., Inc. v. Port Auth. of N.Y. & N.J.*, 2011 WL 5865296 at *1–2 (S.D.N.Y. Nov. 22, 2011); *United States v. Ahmed*, 788 F. Supp. 196, 198 n.1 (S.D.N.Y. 1992), *aff’d*, 980 F.2d 161 (2d Cir. 1992); *United States v. Gotti*, 755 F. Supp. 1157, 1157–58 (E.D.N.Y. 1991). “An amicus brief should normally be allowed when . . . the *amicus* has unique information or perspective that can help the court beyond the help that the lawyers for parties are able to provide.” *C&A Carbone*, 2014 WL 1202699, at *3 (quoting *Ryan v. CFTC*, 125 F.3d 1062, 1063 (7th Cir. 1997)).² “The court is most likely to grant leave to appear as an *amicus curiae* in cases involving matters of public interest.” *Andersen v. Leavitt*, 2007 WL 2343672 at *2 (E.D.N.Y. Aug. 13, 2007).

Amici respectfully submit that leave is proper here. *Amici*’s status as voices of a broad coalition of groups and an individual representing a wide range of members with diverse interests and constituencies and in diverse segments of society, gives them an interest in ensuring that the Central Business District Tolling Program (“Program”) approved by the United States Department of Transportation and Federal Highway Administration remains in effect, thereby protecting the improvements to quality of life and environmental benefits the Program has already achieved region-wide. *See* Ex. 1 at 17-18. *Amici*’s proposed brief thus offers valuable additional perspective, beyond that submitted by the parties, on the important quality of life and environmental benefits that would be maintained and protected for their constituents and others in and around New York City if the Court were to grant Plaintiff’s requested relief and stop the

² In determining whether to grant leave to file an amicus brief, “courts often rely on principles set out by the Seventh Circuit,” including the decision in *Ryan*. *C&A Carbone*, 2014 WL 1202699, at *3–4; *Lehman XS Trust, Series 2006-GP2 v. Greenpoint Mort. Funding, Inc.*, 2014 WL 265784, at *1 (S.D.N.Y. Jan. 23, 2014); *Auto Club*, 2011 WL 5865296, at *2; *Jamaica Hosp. Med. Ctr., Inc. v. United Health Grp., Inc.*, 584 F. Supp. 2d 489, 497 (E.D.N.Y. 2008).

Defendants from attempting to destroy the Program. *Amici's* proposed *amicus* brief provides specialized analysis on the benefits to low-income commuters and air emissions reductions. *See* Ex. 1 at 11-12, supplying “unique information” which may further assist the Court. *C&A Carbone*, 2014 WL 1202699, at *3-4.

CONCLUSION

The Court should grant leave to file the attached *amicus* brief.

Dated: May 15, 2025

Respectfully submitted,

/s/ Andrew D. Otis

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Word Count Certification

I hereby certify pursuant to local rule 7.1 of the Southern District of New York that this document complies with the word count limit. According to the word-processing system used to prepare the document, it contains 1,793 words exclusive of the caption, the table of contents, the table of authorities, and the signature block.

DATED: May 15, 2025
New York, New York

/s/ Andrew D. Otis
Andrew D. Otis, Esq.